

### **Remarks**

The office action of March 17, 2009 has been carefully reviewed. In response to this office action, claims 10, and 17-23 have been amended. Claims 1-9, 12-16, and 24-30 have been canceled. New claims 31 and 32 have been added. Claims 10, 17-23, and 31- 32 are currently pending and presented for review. Favorable reconsideration and allowance are respectfully requested in light of the remarks which follow.

### **Specification**

The Examiner requested that the status for the cross-references cited in the specification be updated. Paragraphs [0043] and [0048] have been amended accordingly.

### **Claim Objections**

Claim 24 has been objected to for stating "In a industrial controller" rather than "In an industrial controller." Claim 24 has been canceled, rendering this objection moot.

### **Claim Rejections – 35 U.S.C. § 101**

Claims 1-23 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

#### **Claim 1**

Independent claim 1 and dependent claims 2-9, and 11-15 have been canceled. Dependent claim 10 has been amended to depend from new claim 31, which incorporates the limitations of claim 16, as discussed below.

#### **Claim 16**

Specifically, the Examiner indicated that claim 16 recites a "distributed controls system" comprising "controllers" and interpreted the claim as only comprising computer software elements. Claim 16 has been cancelled and rewritten as claim 31. Claim 31 incorporates the limitations of claim 16 but has been restructured to positively recite the physical structure of the controlled system. Claims 17-23 have been amended to depend from and to incorporate the new structure recited in claim 31. Therefore, Applicant submits that claims 31 and 17-23 are in

condition for allowance.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-10, 12-15, and 24-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Somers, U.S. Pat. No. 6,243,396, in view of Struger, U.S. Pat. No. 5,896,289.

Claims 1-9, 12-15, and 24-30 have been canceled. Claim 10 has been amended to depend from claim 31 which incorporates the limitations of claim 16 and has been identified as allowable subject matter. Therefore, Applicant submits that claim 10 is in condition for allowance.

#### **Allowable Subject Matter**

Claims 16-23 have been identified as being allowable subject to the 35 U.S.C. § 101 rejection detailed above, and subject to a final search. Claim 16 has been canceled and rewritten as claim 31 in response to the 35 U.S.C. § 101 rejection detailed above. Therefore, Applicant submits that claim 31 and dependent claims 17-23 are in condition for allowance.

#### **New Claim**

New claim 32 depends from claim 31 and, for at least the reasons described above with respect to claim 31, is in condition for allowance. Claim 32 further incorporates the additional limitation of a first agent application modifying operation of either the real-time control program or another agent application. This limitation is fully supported in the specification and introduces no new material (see for example paragraph [0056]).

#### **Conclusions**

In light of these remarks and amendments, it is believed that claims 10, 17-23, and 31-32 are now in condition for allowance and allowance is respectfully requested. The Examiner is encouraged to contact the undersigned if minor amendments are needed in the figures, specification, or claims to bring this case into allowance.

Respectfully submitted,

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